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SUPREME COURT OF THE UNITED STATES. OCTOBER TERM, 1884.

NO. 960.

JOHN STRYKER, *Plaintiff in Error.*
vs.
EDWARD K. GOODNOW, *Defendant in Error.*

On Error from Supreme Court of Iowa.

Reply to Plaintiff's Argument on Motion to Dismiss Writ of Error.

C. H. GATCH, for Plaintiff in Error.
GEORGE CRANE, for Defendant in Error.

DEFENDANT'S BRIEF.

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I.

This court has already held that the question whether the ands were taxable for 1861, depends upon the meaning and interpretation to be given to the revenue laws of Iowa. Such being the fact, clearly this court has no jurisdiction of this suit. For even if the state court committed an error in construing the state statute, or disregarded or over-ruled other cases decided by the same court, still such errors cannot be corrected by a federal court. The adverse counsel refers this court to the revenue statute of Iowa, and to a number of decisions thereunder, by the Supreme Court of Iowa, to prove that the lands were not taxable for the year 1861. Now these are all matters

of purely *local law*, and if the decision in this case is inconsistent therewith this court clearly has no power to correct such error. The very references made by plaintiff's counsel demonstrate beyond all doubt that the taxability of the lands for 1861, was dependent upon the statutes of Iowa and the decisions of its courts. But this courts jurisdiction does not depend either upon Iowa statutes or upon the decisions of Iowa courts, heretofore made thereunder. These statutes and decisions can neither confer nor take away this courts jurisdiction. If they had been precisely the opposite of what they are, this court's right to take jurisdiction in this case would have been precisely the same. If this court ever holds in the case at bar, that the lands were not taxable for the year 1861, or the last ten months thereof, it must base its decision, not upon the statutes of Iowa or the rulings of the courts of Iowa; but upon some *federal ground;* upon some treaty or statute or some authority exercised thereunder. Now as there is clearly no such ground, and this court has no shadow of power to hold the lands exempt from taxation for the year 1861, it follows inevitably that it cannot take jurisdiction of this case.

Assume for argument sake that in the case at bar the state court misconstrued or disregarded the provisions of the revenue statutes of the state or refused to follow its former decisions. Still what difference does that make. This court has no power to review the decision of the state court on any such ground.

To give this court jurisdiction, it must *affirmatively* appear that the state court decided that the lands were taxable before the 2nd day of March, 1861. There can be no other pretense of a federal question being involved in the case. The counsel for the plaintiff in error refers to no other ground.

It is certain that the state court did not *in fact* decide such question. All that that court decided was that the defendant in error having paid the taxes for the year 1861 in good faith, had a right to recover them from the owner of the land. In doing this the court simply assumed that the taxes for 1861 were legally and validly assessed upon the lands. But there is no presumption that it either held or assumed that the lands were taxable before March 2nd, 1861, nor was it necessary for the court to so hold in order to render the judgment that was given in the case.

The adverse counsel quotes extensively from what this court said in the case of Litchfield vs. Webster county, 101 U. S. 774. But the quotations are all conclusions drawn from state court decisions, and the provisions of the revenue laws of Iowa, and in a case appealed from a federal circuit court wherein this court was required to decide all the points raised, of course such quotations have nothing to do with the question now presented to this court. It makes no difference what the state court has decided in former cases. It makes no difference what construction this court has heretofore given to the revenue laws of Iowa —the jurisdiction of this court in the case at bar does not depend upon such maters—but simply and solely upon whether the state court denied to the plaintiff in error a right or immunity claimed under a statute treaty, or authority of the United States. The only immunity claimed in this regard is that the lands were not taxable before March 2d, '61. This immunity was neither directly nor indirectly denied to the plaintiff. Neither was it necessary to do so in order to sustain the judgment of the state court. For the latter purpose it was sufficient that the lands became taxable immediately after the 2d of March, '61. The lands being taxable after that date the implied promise to repay the taxes thereon was based upon a sufficient and valid consideration. The validity and adequacy of that consideration was the only question in this regard that the court was required to pass upon.

II.

The counsel for plaintiff in error, to sustain his second point, refers this court to the case of Chicago vs. Robbins, 4 Wall, 657 and a number of other cases founded upon the same principle. These cases are applications of the familiar doctrine that where a person is interested in a suit by being ultimately liable therein and has notice of its pendency, he shall be bound by the judgment. But this doctrine has no bearing either directly or indirectly upon the questions before this court. We shall not consume the time of this court in examining cases so utterly irrelevant.

Should it become necessary the defendant will be able to satisfy this court that the judgment in the Homestead suit was rendered without any jurisdiction over the case, and was therefore void, the want of jurisdiction appearing upon the face of the record.

GEORGE CRANE,
Attorney for Defendant.